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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,578	12/12/2003	Tomoko Sugito	2038-313	8614
22429	7590	02/14/2006	EXAMINER	
LOWE HAUPTMAN GILMAN AND BERNER, LLP			HAND, MELANIE JO	
1700 DIAGONAL ROAD			ART UNIT	
SUITE 300 /310			PAPER NUMBER	
ALEXANDRIA, VA 22314			3761	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/733,578

Applicant(s)

SUGITO, TOMOKO

Examiner

Melanie J. Hand

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/12/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. JP 2002-365574, filed on December 17, 2002.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on December 12, 2003 was filed on the mailing date of the Application. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Lavon et al (U.S. Patent No. 6,458,110).

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With respect to **Claims 1,5**: Lavon teaches a diaper 20 having longitudinal and transverse dimensions, a front waist region 22, a rear waist region 24 and crotch region 26 that is disposed between the front waist region and rear waist region. Absorbent core 44 disposed between liquid-permeable topsheet 38 and liquid-impermeable backsheet 42. Core 44 is encased in a layer of tissue paper, thereby defining an upper covering section of the tissue paper and a lower covering section of the tissue paper. Core 44 is comprised of two layers, one defined by expandable component 200 having resilient elements 215. Apertures 46 and 47 in said topsheet and core 44 respectively, may be located in any desirable location, which would encompass a location aligned with the penis of a user. Expandable component 200 defines a z-direction void space 311 that is taught by Lavon as being used fecal waste storage but can be used in other ways. This void space 311 provides a pocket for said penis that has dimensions in the z-direction and extends in the longitudinal direction.

With respect to **Claim 2**: Lavon teaches aperture 47 in core 44 and, because of the resulting structure of core 44 including aperture 47, the upper covering section of said tissue paper can meet the lower section and cooperate to form a boundary for void space 311.

With respect to **Claim 3**: Lavon teaches that absorbent core 44 (including the tissue paper) can be bonded to backsheet 42 in a pattern of adhesive beads constituting a longitudinal or transverse line (Col. 7, lines 18-22), therefore backsheet 42 can be bonded to only a peripheral edge of core 44.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lavon et al ('110) in view of Wada et al (U.S. Patent No. 6,416,500).

With respect to **Claim 4**: Lavon teaches that expandable component 200 resilient elements encased in a liquid-impermeable envelope 220. Lavon does not teach that this envelope is adjacent to an upper covering section of said tissue paper, rather that it covers a lower section of tissue paper since core 44 is superposed on resilient elements 215. Wada teaches a urine-retaining bag having a portion of the absorbent core that is cleaved at the point where the portions of the bag are folded together and the penis is inserted into the bag. Wada teaches that the absorbent core 3 is wrapped in liquid-impermeable film 3c to prevent urine from permeating base sheet 2 and then from leakage, ('500, Col. 8, lines 6-17) therefore it would be obvious to one of ordinary skill in the art to add a liquid-impermeable sheet between topsheet 38 and the tissue paper to prevent rewet as taught by Wada.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

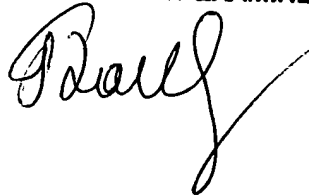
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Tatyana', with a long, sweeping horizontal stroke extending to the right.